



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

3

4

In Re: Application of) Art Unit:
5 GEORGE KRIKORIAN, et al)
6 Serial No.: 09/490,948) Examiner:
7 Filed: January 24, 2000)
8 For: MULTIPLE STAGE THEATER)
9)
10)

11

Assistant Commissioner For Patents
12 Washington, DC, 20231

13 Sir

14 PETITION TO PROCEED WITH LESS THAN ALL INVENTORS
15 UNDER 37 C.F.R. 1.47(a)

16 A petition to proceed with less than all inventors is
17 permitted under 37 C.F.R. 1.47(a) and MPEP 409.03(d) upon proof
18 that the nonsigning inventor wilfully refuses to co-operate in
19 the prosecution of the application.

20 This petition is based on the attached declaration of Nathan
21 Boatner, Attorney, and the attached copy of the letter to the
22 nonsigning inventor indicating compliance with 37 C.F.R. 1.47(a)
23 and MPEP 409.03(d).

24 For all of these reasons it is requested that this petition
25 be granted.

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RECEIVED

JAN 18 2002

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

1 Respectfully submitted.

2 DATED: DEC 29 2001

NB
Nathan Boatner, Attorney
Reg. No. 32856
PMB 692, 7095 Hollywood Blvd
Los Angeles, CA, 90028
213-840-8286

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6 DECLARATION OF NATHAN BOATNER

7 I, Nathan Boatner, declare as follows:

8 1) I am an attorney duly licensed to appear before the
9 United States Patent and Trademark Office. I am also attorney of
10 record in this application. As such I make the following
11 statements based on my first hand personal knowledge.

12 2) Hraztan S. Zeitlian is one of the original named
13 inventors of the present invention. He originally signed the
14 oath of inventorship and assigned his rights as inventor to
15 Showprop Monrovia, LLC. The assignment was recorded at the PTO.

16 3) When presented with a second oath or declaration in order
17 to comply with the PTO requirement that a new oath be filed in
18 order to process a continued prosecution application submitted to
19 the PTO, Mr Zeitlian refused to sign the new oath.

20 4) Mr Krikorian spent several weeks negotiating with Mr
21 Zeitlian until the middle of August of 2001 when Mr Krikorian
22 told me that he could not persuade Mr Zeitlian to sign the new
23 oath or declaration.

24 5) In the meantime Mr Krikorian informed me that Mr Zeitlian
25 had consulted with an attorney who advised him to refuse to co-
26 operate in the prosecution of this application which he had
27 previously agreed to do. Mr Krikorian informed me that Mr
28 Zeitlian requested that Mr Krikorian sign a release that releases

1 Mr Zeitlian from his assignment agreement. I advised Mr
2 Krikorian not to do this.

3 6) After being informed by Mr Krikorian that Mr Zeitlian
4 would not sign the new oath of inventorship I prepared a letter
5 to Mr Zeitlian dated August 20, 2001, a copy of which is attached
6 hereto.

7 7) I sent the letter to the mailing address of Mr Zeitlian
8 and the letter was not returned to me undelivered by the Post
9 Office so that I know Mr Zeitlian received the letter. I could
10 not send the letter to an attorney because I do not know the
11 identity of any attorney representing Mr Zeitlian.

12 8) Along with the letter I sent Mr Zeitlian another copy of
13 the application papers including the specificantion, the
14 drawings, the claims and a blank copy of the new oath of
15 inventorship. Mr Zeitlian had previously acknowleged that he had
16 received these application papers when he signed the original
17 oath of inventorship.

18 9) In order to insure that Mr Zeitlian continues to refuse
19 to co-operate in the prosecution of the present patent
20 application a new specification, claims, drawings, and
21 declaration of inventorship was mailed by me to Mr Zeitilan's
22 last known address on November 26, 2001 and was not returned to
23 me undelivered by the post office. A copy of that letter is also
24 attached to this petition.

25 10) Mr Zeitlian has refused to communicate with me in any
26 manner, either by mail or telephone. Instead he communicates
27 directly with Mr Krikorian. Since Mr Zeitlian refuses to co-
28 operate with me or Mr Krikorian in the prosecution of this

1 application there is no choice other than to file this petition
2 to proceed in his absence.

3 I hereby declare that all statements made herein of my
4 own knowledge are true and that all statements made on
5 information and belief are believed to be true; and further that
6 these statements were made with the knowledge that willful false
7 statements and the like so made are punishable by fine or
8 imprisonment, or both, under section 1001 of Title 18 of the
9 United States Code, and that such willful false statements may
10 jeopardize the validity of the foregoing statements.

11

12

DATED

DEC 29 2001


Nathan Boatner, Attorney

13

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CERTIFICATE OF MAILING

15

I, Nathan Boatner, attorney, hereby certify that the
foregoing

16

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PETITION TO PROCEED WITH LESS THAN ALL INVENTORS
UNDER 37 C.F.R. 1.47(a)

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was deposited in the United States Post Office at Mira Loma,
California with first class postage prepaid on this day addressed
as follows:

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21

Commissioner of Patents
Box DAC
Washington DC 20231-0001



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DATED:

DEC 29 2001

Nathan Boatner, Attorney
Reg. No. 32856

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11 Assistant Commissioner For Patents
12 Washington, DC, 20231

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

13 Sir

14 RESPONSE TO OFFICE OF PETITIONS ACTION

15 The following is a response to an official action of the
16 Office of Petitions mailed October 29, 2001.

17 Enclosed please find the following:

18 A continuing application filed under 35 USC 111(a) and 37
19 CFR 1.53(b);

20 A new oath naming only Krikorian and Zeitlian as inventors
21 and:

22 A petition and fee under 37 CFR 1.47(a).

23 BACKGROUND

24 In this matter one person originally named as an inventor
25 namely Richard Martin Byrd was erroneously named as a co-inventor
26 of the invention covered by this application. Also named as co-
27 inventors were Hraztlein S Zeitlian and George Krikorian. It was
28 later discovered that Richard Martin Byrd was not an actual co-

1 inventor and that Mr Zeitlian and Mr Krikorian were the only two
2 co-inventors. Mr Zeitlian signed an agreement to cooperate in
3 the prosecution of this application and assigned his rights to
4 the invention to Showprop Monrovia, LLC. However, Mr Zeitlian
5 subsequently refused to co-operate in the prosecution of this
6 application leaving Mr Krikorian as the only inventor to continue
7 to prosecute the application.

8 A new oath and request to file a continuing prosecution
9 application was then filed and the examiner found that the
10 continuing prosecuting application is not a complete application
11 within the meaning of 37 CFR 1.51(b) and the declaration
12 submitted does not list both Krikorian and Zeitlian as co-
13 inventors.

To remedy the situation the examiner suggested that:

15 1) A continuing application be filed under 35 USC 111(a) and
16 37 CFR 1.53.(b) and

17 2) a petition and fee under 37 CFR 1.47(a) if Zeitlian
18 continues to refuse to co-operate.

REMARKS

MPEP section 201.06(c) states as follows:

21 A continuation or divisional application may be filed under
22 35 USC 111(a) using the procedures set forth in 37 CFR 1.53(b) by
23 providing: 1) a copy of the prior application, including a copy
24 of the signed oath or declaration in such prior application, as
25 files; 2) a new specification and drawings and a copy of the
26 signed oath or declaration as filed in the prior application
27 provided the new specification and drawings do not contain any
28 subject matter that would have been new matter in the prior

1 application; or 3) a new specification and drawings and a newly
2 executed oath or declaration provided the new specification and
3 drawings do not contain any subject matter that would have been
4 new matter in the prior application.

5 In compliance with these requirements and the requirements
6 of the examiner enclosed is a copy of the prior application
7 consisting of the following: 1) the specification and claims; 2)
8 the drawings; 3) the newly executed declaration; and 4) the small
9 entity declaration previously filed.

10 Also enclosed is a new specification and claims identical to
11 the prior specification and claims; drawings; a copy of the prior
12 application declaration of inventorship; a copy of the prior
13 application small entity declaration; and a new information
14 disclosure statement for the continuing application.

15 Also enclosed is a petition under 37 CFR 1.47(a) to proceed
16 with the application without the co-operation of co-inventor
17 Zeitlian.

18 The filing fee for a new application was previously sent to
19 the PTO on February 26, 2001 in connection with a request to file
20 a continued prosecution application and never used or refunded in
21 that the continued prosecution application never was actually
22 filed. Accordingly a new filing fee is not also enclosed for the
23 continued application.

24 A petition fee in the amount of \$130 is enclosed in order to
25 comply with the requirements of the examiner who only requested
26 that this additional fee be paid due to the necessity of a new
27 petition to proceed without the co-operation of co-inventor
28 Zeitlian.

1 CONCLUSION

2 At this time all of the requirements for the continued
3 prosecution of this application of the examiner have been met and
4 for all of the reasons set forth above it is requested that the
5 continuation application be filed, that the petition to proceed
6 without the co-operation of Zeitlian be granted and that this
7 application be sent to the examiner for further prosecution.

8 Respectfully submitted.



9
10 DATED: DEC 29 2001

Nathan Boatner, Attorney
Reg. No. 32856
PMB 692, 7095 Hollywood Blvd
Los Angeles, CA, 90028
213-840-8286

11
12 CERTIFICATE OF MAILING

13 I, Nathan Boatner, attorney, hereby certify that the
14 foregoing

15
16 RESPONSE TO OFFICE OF PETITIONS ACTION

17 was deposited in the United States Post Office at Mira Loma,
18 California with first class postage prepaid on this day addressed
as follows:

19
20 Commissioner of Patents
21 Box DAC
22 Washington DC 20231-0001

23
24 DATED: DEC 29 2001



Nathan Boatner, Attorney
Reg. No. 32856

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